

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IYKE CHURCHILL

Plaintiff(s),

**DEFENDANT'S
RULE 26 (a)
DISCLOSURE**

**08CIV0255
(CM) (NAJ)**

-against-

CITY OF MOUNT VERNON, MOUNT VERNON POLICE
DEPARTMENT, LIEUTENANT ADINARO,
DETECTIVE ENZO BAIA, DETECTIVE BAILEY,
DETECTIVE BONCARDO, DETECTIVE FEGAN GEORGIO,
DETECTIVE MASTROGIORGIO, AND
DETECTIVE OSSIBO

Defendant(s).

-----X
DEFENDANT, **CITY OF MOUNT VERNON**, BY ITS ATTORNEY

HELEN M. BLACKWOOD, ESQ., CORPORATION COUNSEL, pursuant to FRCP

RULE 26(a)(1), upon information and belief hereby states:

A. Name and if known address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claim or defenses:

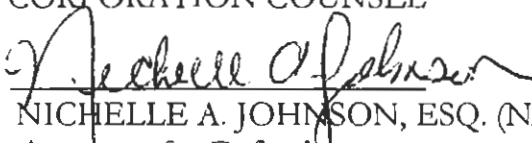
- Response:** Lieutenant Adinaro, Mount Vernon Police, Two Roosevelt Square,
Mount Vernon, New York 10550; 914-665-2500;
- Detective Enzo Baia Mount Vernon Police, Two Roosevelt Square,
Mount Vernon, New York 10550; 914-665-2500;
 - Detective Martin Bailey, Mount Vernon Police, Two Roosevelt
Square, Mount Vernon, New York 10550; 914-665-2500;
 - Detective Boncardo, Mount Vernon Police, Two Roosevelt Square,
Mount Vernon, New York 10550; 914-665-2500;
 - Detective Ossipo, Mount Vernon Police, Two Roosevelt Square,
Mount Vernon, New York 10550; 914-665-2500;'

- Sergeant Podszus, Mount Vernon Police, Two Roosevelt Square, Mount Vernon, NY 10550, 665-2500;
 - John Lyles, 53 Glenwood Avenue, Apt. 2B, Mount Vernon NY, 914-968-0279;
 - Angel Vicente, 257 South 3rd Avenue, 914-562-7329;
 - Montia Osborne, 273 W. Lincoln Avenue, Mt. Vernon NY 557-2637 or 914-562-6899.
- B. A copy of, or description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

Response:

Police Report # 06-34724
Police Report #07-594 with Supplemental from id#2929
Statements of John Lyles starting at 2340hrs
Statement of John Lyles starting at 1715hrs
Photo Array signed by John Lyles
Statement of Angel Vicente starting at 1410hrs
Photo Array signed by Angel Vicente
Statement of Montia Osbourne starting at 1845hrs
Photo Array signed by Montia Osbourne

Dated: Mount Vernon, New York
April 8, 2008

HELEN M. BLACKWOOD, ESQ.
CORPORATION COUNSEL
By: 
NICHELLE A. JOHNSON, ESQ. (NAJ7688)
Attorneys for Defendant
CITY OF MOUNT VERNON
1 Roosevelt Square
Mount Vernon, New York 10550
(914) 665-2366

To: Anselmo A. Alegria
Attorneys for Plaintiff
245 Main St.
Suite 410
White Plains, NY 10601

1. Agency MV.P.D.		2. Precinct D		New York State INCIDENT REPORT		3. ORI NY05903		4. <input checked="" type="checkbox"/> Orig <input type="checkbox"/> Supp		5. Case No.		6. Incident No. 06-5474									
7. Report Day SAT		8. Date 09/09/06		9. Report Time 1350		10. Day SAT		11. Date 09/09/06		12. Time 1330		13. Day SAT		14. Date 09/09/06		15. Time 1340					
16. Incident Type DISPUTE		17. Business Name						18. Weapon(s)													
19. Incident Address (Street No., Street Name, Bldg. No., Apt. No.) 148 W. 1ST ST										20. City, State, Zip (R/C <input type="checkbox"/> T <input type="checkbox"/> V) MT. VERNON NY				21. Location Code 6003							
22. OFF. NO.		LAW		SECTION		SUB		CL		CAT		DEG		ATT		NAME OF OFFENSE		CTS		23. No. of Victims	
1		MVCC		5900		-		-		-		-		C		DISPUTE/DISTURBANCE		1		X	
2																				24. No. of Suspects	
3																				X	
25. Person Type: CO=Complainant OT=Other PI=Person Interviewed PR=Person Reporting WI=Witness NI=Not Interviewed VI=Victim												26. Victim also complainant <input type="checkbox"/> Y <input checked="" type="checkbox"/> N									
TYPE/NO		NAME (LAST, FIRST, MIDDLE, TITLE)						Date of Birth		STREET NO., STREET NAME, BLDG. NO., APT. NO., CITY, STATE, ZIP						Telephone No.					
C1		CHURCHILL, ISAAC						05/13/63		262 S. 9TH AVE MT VERNON NY						319-8124					
I1		FOSTER, DWAYNE						09/22/69		273 W. LINCOLN AVE, MT. VERNON						557-2634					
I2		OSBOURN, MONICA						09/12/73		273 W. LINCOLN AVE MT. VERNON						557-2634					
27. Date of Birth		28. Age		29. Sex		30. Race		31. Ethnic		32. Handicap		33. Residence Status		34. Temp Res. - Foreign Nat.							
				<input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> U		<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Other <input type="checkbox"/> Indian <input type="checkbox"/> Asian <input type="checkbox"/> Unk.		<input type="checkbox"/> Hispanic <input type="checkbox"/> Unk. <input type="checkbox"/> Non-Hispanic		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Resident <input type="checkbox"/> Tourist <input type="checkbox"/> Student <input type="checkbox"/> Other <input type="checkbox"/> Commuter <input type="checkbox"/> Military <input type="checkbox"/> Homeless <input type="checkbox"/> Unk.									
34. Type/No.		35. Name (Last, First, Middle)						36. Alias/Nickname/Maiden Name (Last, First, Middle)						37. Apparent Condition							
														<input type="checkbox"/> Impaired Drugs <input type="checkbox"/> Mental Dis. <input type="checkbox"/> Unk. <input type="checkbox"/> Impaired Alco <input type="checkbox"/> Inj/III <input type="checkbox"/> App Norm							
38. Address (Street No., Street Name, Bldg. No., Apt. No., City, State, Zip)										39. Phone No.		<input type="checkbox"/> Home <input type="checkbox"/> Work		40. Social Security No.							
41. Date of Birth		42. Age		43. Sex		44. Race		45. Ethnic		46. Skin		47. Occupation									
				<input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> U		<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Other <input type="checkbox"/> Indian <input type="checkbox"/> Asian <input type="checkbox"/> Unk.		<input type="checkbox"/> Hispanic <input type="checkbox"/> Unk. <input type="checkbox"/> Non-Hispanic		<input type="checkbox"/> Light <input type="checkbox"/> Dark <input type="checkbox"/> Unk. <input type="checkbox"/> Medium <input type="checkbox"/> Other											
48. Height		49. Weight		50. Hair		51. Eyes		52. Glasses		53. Build		54. Employer/School		55. Address							
								<input type="checkbox"/> Yes <input type="checkbox"/> Contacts <input type="checkbox"/> No		<input type="checkbox"/> Small <input type="checkbox"/> Large <input type="checkbox"/> Medium											
56. Scars/Marks/Tattoos (Describe)										57. Misc.											
58. Victim or Suspect No.		Property Status		Property Type		Quantity / Measure		Make or Drug Type		Model		Serial No.		Description		Value					
59. Vehicle Status		60. License Plate No.		Full <input type="checkbox"/> Partial <input type="checkbox"/>		61. State		62. Exp. Yr.		63. Plate Type		64. Value									
65. Veh. Yr.		66. Make		67. Model		68. Style		69. VIN													
70. Color(s)		71. Towed By		To:		72. Vehicle Notes															
73. ON SEPT 9TH 2006 AT 1330 HRS RESPONDED TO 148 W. 1ST ST ON A REPORTED DISPUTE. UPON ARRIVAL SPOKE TO C1 (CHURCHILL, ISAAC) WHO STATED THAT WHILE ARGUING WITH I2 (OSBOURN, MONICA), I1 (FOSTER, DWAYNE) STRUCK HIM IN THE LEFT SIDE OF HIS FACE. I2 STATED THAT HE MOVED C1 BACK BECAUSE C1 WAS VERY CLOSE TO I2 WHILE YELLING AT HER. SGT. PODERAS ON SCENE. C1 SHOWED NO VISIBLE SIGN OF INJURY. AFTER INVESTIGATION ON SCENE I WAS UNABLE TO SUBSTANTIATE C1'S CLAIM. THIS IS FOR DOCUMENTARY PURPOSES ONLY																					
74. Inquiries (Check all that apply) <input type="checkbox"/> DMV <input type="checkbox"/> Warrant <input type="checkbox"/> Scofflaw <input type="checkbox"/> Crim. History <input type="checkbox"/> Stolen Property <input type="checkbox"/> Other																					
75. NYSPIN Message No.																					
76. Complainant Signature 09-10-06																					
77. Reporting Officer Signature (Include Rank) PO. M. T. #1135																					
78. ID No.																					
79. Supervisor Signature (Include Rank) 418 5012																					
80. ID No.																					
81. Status <input type="checkbox"/> Vict. Refused to Coop. <input type="checkbox"/> Open <input type="checkbox"/> Closed (If Closed, check box below) <input checked="" type="checkbox"/> Unfounded <input type="checkbox"/> Vict. CBI <input type="checkbox"/> Juv. - No Custody <input type="checkbox"/> Arrest <input type="checkbox"/> Prcs. Declined <input type="checkbox"/> Warrant Advised <input type="checkbox"/> Extrad. Declin. <input type="checkbox"/> Unknown																					
82. Status Date 09/09/06																					
83. Notified/TOT																					
84. B use cover sheet																					
Page 09																					
Pages																					

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1. Report Date		2. Division/Precinct		3. ORU		4. <input checked="" type="checkbox"/> Drug <input type="checkbox"/> Supp		5. Incident No.	
FR 01/05/07		1917		FR01 01/05/07		1917		07594	
16. Incident Type		17. Business Name				18. Weapon(s)			
ASSAULT 1ST DEGREE		FOUR STAR DELI				FIREARM			
19. Incident Address (Street No., Street Name, Bldg No., Apt. No.)						20. City, State, Zip (City, State, Zip)		21. Location Code	
18 E. 3RD ST (INSIDE)						MT VERNON NY 10556		0003	
22. Off. No.		LAW		SECTION		SUB		CL	
1		PL		120.0		1		B	
2									
3									
23. No. of Victims		24. No. of Suspects		25. Person Type: CO = Complainant OT = Other PI = Person Interviewed PR = Person Reporting WI = Witness NI = Not Interviewed VI = Victim		26. Victim also complainant <input checked="" type="checkbox"/> Y <input type="checkbox"/> N			
1		1							
2		1							
3		1							
27. Date of Birth		28. Age		29. Sex		30. Race		31. Ethnic	
09/22/69		37		<input checked="" type="checkbox"/> M <input type="checkbox"/> F		<input type="checkbox"/> White <input checked="" type="checkbox"/> Black <input type="checkbox"/> Other		<input type="checkbox"/> Hispanic <input type="checkbox"/> Unk. <input checked="" type="checkbox"/> Non-Hispanic	
32. Handicap		33. Residence Status		34. Temp Res.		35. Foreign Nat.		36. Apparent Condition	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input checked="" type="checkbox"/> Resident <input type="checkbox"/> Tourist <input type="checkbox"/> Student <input type="checkbox"/> Other		<input type="checkbox"/> Commuter <input type="checkbox"/> Military <input type="checkbox"/> Homeless <input type="checkbox"/> Unk.		<input type="checkbox"/> Impaired Drugs <input type="checkbox"/> Mental Dis <input type="checkbox"/> Unk.		<input type="checkbox"/> Inj / Ill <input type="checkbox"/> App Norm	
37. Type/No		38. Name (Last, First, Middle)		39. Alias/Nickname/Maiden Name (Last, First, Middle)		40. Social Security No.			
S		UNKNOWN							
41. Date of Birth		42. Age		43. Sex		44. Race		45. Ethnic	
				<input checked="" type="checkbox"/> M <input type="checkbox"/> F		<input type="checkbox"/> White <input checked="" type="checkbox"/> Black <input type="checkbox"/> Other		<input type="checkbox"/> Hispanic <input type="checkbox"/> Unk. <input checked="" type="checkbox"/> Non-Hispanic	
46. Skin		47. Occupation		48. Height		49. Weight		50. Hair	
<input type="checkbox"/> Light <input type="checkbox"/> Dark <input type="checkbox"/> Unk. <input checked="" type="checkbox"/> Medium <input type="checkbox"/> Other									
51. Eyes		52. Glasses		53. Build		54. Employer/School		55. Address	
		<input type="checkbox"/> Yes <input type="checkbox"/> Contacts <input type="checkbox"/> No		<input type="checkbox"/> Small <input type="checkbox"/> Large <input checked="" type="checkbox"/> Medium					
56. Scars / Marks / Tattoos (Describe)		57. Misc.		58. Victim or Suspect No.		59. Property Status		60. Property Type	
MALE BLACK 5'10" WHITE HANDY W/ RED LETTERING									
61. State		62. Exp. Yr.		63. Plate Type		64. Value			
65. Veh. Yr.		66. Make		67. Model		68. Style		69. VIN	
70. Color(s)		71. Towed By:		72. Vehicle Notes					
		To:							
73. ON 1/5/07 @ 1917 HRS. RESPONDED TO 18 E. 3RD ST. (FOUR STAR DELI) ON REPORT OF SHOTS FIRED AND A MAN DOWN. UPON ARRIVAL AT INCIDENT LOCATION LOCATED (V) FOSTER, DWAYNE IN THE REAR OF THE STORE ON THE GROUND SEMI-CONSCIOUS. UPON FURTHER INVESTIGATION FOUND (V) SHOT 3 TIMES IN RT. LEG, LOWER BACK & LEFT SIDE OF CHEST. (V) WAS TAKEN TO MT. VERNON ER BY A-1 w/ DET. BURNETT RIDING ALONG. (V) IS IN CRITICAL CONDITION AT THIS TIME @ MT. VERNON HOSPITAL. (W) LYLES, JOHN A WITNESS ON SCENE TAKEN INTO DETECTIVE DIVISION FOR QUESTIONING. W/ DET. THOMAS. OTHER WITNESSES TRANSPORTED TO DETECTIVE DIVISION FOR QUESTIONING. (V) FLED C/B ON 3RD ST. FROM INCIDENT LOCATION. DET. POPSZUD #12, ESA SGT. CPT. FARRER ON SCENE. CRIME SCENE SET UP ALONG W/ CANVAS FOR SUSPECTS & WITNESSES WHICH YIELDED NEGATIVE RESULTS. DET. BUCARDO NOTIFIED & WILL BE FOLLOWING UP W/ THIS INCIDENT. DETECTIVE BUCARDO INVESTIGATING STORE SURVEILLANCE TAPE. POSSIBLE WITNESSES INVESTIGATED BY DETECTIVE DIVISION. THIS OFFICER LOCATED 2 40. CHABER									
74. Inquiries (Check all that apply)									
<input type="checkbox"/> DMV <input type="checkbox"/> Want/Warrant <input type="checkbox"/> Scofflaw <input type="checkbox"/> Other									
<input type="checkbox"/> Crim. History <input type="checkbox"/> Stolen Property <input type="checkbox"/> Other									
75. NYSPIN Message No.									
76. Complainant Signature									
77. Reporting Officer Signature (Include Rank)									
78. ID No.									
79. Supervisor Signature (Include Rank)									
80. ID No.									
81. Status									
<input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed (If Closed, check box below) <input type="checkbox"/> Unfounded									
<input type="checkbox"/> Vict. Refused to Coop. <input type="checkbox"/> Arrest <input type="checkbox"/> Pros. Declined <input type="checkbox"/> Warrant Advised									
<input type="checkbox"/> CBI <input type="checkbox"/> Juv. - No Custody <input type="checkbox"/> Arrest - Juv. <input type="checkbox"/> Offender Dead <input type="checkbox"/> Extrad. Declin. <input type="checkbox"/> Unknown									
82. Status Date									
83. Notified/TOT									
84. Page									
85. Page									

1. Agency MUPD		2. Precinct B		New York State SUPPLEMENTAL REPORT		Sup. Agent To: 07-0594		3. Incident No.		4. Arrest No.			
5. Date May 07		6. Time of Report 1817		7. Complainant Name Foster, Dwayne				8. Assault 1st					
Block No.		9. Narrative (Indicate Block No. in left margin)											
<p>Responded to 15 E. 3rd Street (Four star Deli) per a 1046. Upon arrival, the undersigned entered the Deli and observed V, (Foster, Dwayne DOB 9/22/69) Laying in the rear of the Deli w/ an apparent gun shot wound to the L/upper abdomen. EMS arrived on scene along w/ Sgt. Podguz who assigned the undersigned to respond to MT. VERNON ER w/ EMS. Upon arrival at MT. VERNON ER DR. E. Fiang, DR. Agong Polo and DR. Karen Filian tended to V, at which time it became apparent that V, suffered a bullet wound to L/upper abdomen, R/Lower back and R/Thigh. The undersigned collected V's clothing and turned said clothing over to Det. Castellano. At approx. 1850hrs, the undersigned advised V, that he would die from his wounds (Dying Declaration). V, told me his name and date of birth and stated he did not know the person who shot him. V, described the shooter as a black male approx. 5'10" no age or complexion. V, passed out at this point but in a few moments further indicated that a male friend known to him as John Lyles (I,) was with him at the time of the shooting. V, further stated that John Lyles warned him that the killer was approaching w/ a gun in his hand. V, could not produce a date of birth or address for John Lyles. At approx. 1942hrs, V, was transported to operating room where DR. E. Fiang, DR. Agong Polo & DR. Karen Filian performed emergency surgery. At approx. 2220hrs, DR. Karen Filian pronounced V, dead as a result of injuries suffered in this shooting incident.</p>													
ADMINISTRATIVE		10. Inquiries (check all that apply)				11. NYSPIN Message No.		12.		20. Page of Pages			
<input type="checkbox"/> DMV <input type="checkbox"/> Crim. History <input type="checkbox"/> Want/Warrant <input type="checkbox"/> Stolen Property <input type="checkbox"/> Scofflaw <input type="checkbox"/> Other													
13. Reporting Officer Signature (Include Rank) Det. Ruelas #109				14. ID No. 2929		15. Supervisor's Signature (Include Rank) [Signature]				16. ID No. [Signature]			
<input type="checkbox"/> Case Studies <input type="checkbox"/> Vict. Refused to Coop. <input type="checkbox"/> CBI <input type="checkbox"/> Juv. No Custody				<input type="checkbox"/> Closed (If Closed, check box below) <input type="checkbox"/> Arrest <input type="checkbox"/> Arrest-Juv. <input type="checkbox"/> Pros. Declined <input type="checkbox"/> Offender Dead				<input type="checkbox"/> Unfounded <input type="checkbox"/> Warrant Advised <input type="checkbox"/> Extrad. Declin. <input type="checkbox"/> Unknown				18. Status Date Mo 5 07 19. Notified TOT Det. Boncario	
B Use cover sheet													

POLICE DEPARTMENT)
CITY OF MT. VERNON)
COUNTY OF WESTCHESTER) SS. TIME STARTED: 2340Hrs.
STATE OF NEW YORK) TIME FINISHED: 0030Hrs.
DATE: 01-05-07
INCIDENT: 07-594
CASE #:

NOTICE: The making of false statements in this instrument is punishable as a Class A Misdemeanor pursuant to Section 210.45 of the New York State Penal Law.

I, the undersigned John H Llyles reside at 345 Gramatan Ave. 2nd Fl. and I am 35 years of age being born on 04-17-71. I am presently unemployed. I have a home phone number of (914-668-1883. I do hereby make the statement to Detective Baia #134 knowing him to be amember of the Mount Vernon Police Department.

Q. John the Mt.Vernon Police Dept. is currently investigating a homicide shooting which occurred inside the grocery store located at 18 E.3rd St. on this date at approximately 1819Hrs. in your own words can you please tell me what happened?

A. We were hanging out in front of the Grocery store at 3rd Ave. and 3rd St. when a guy came out of a crowd people and pulled out a gun and began saying "Move, Move Get out the way", he chased me and my friend Dwayne Foster. we had no where to go but inside of the grocery store. I was in front of Dwayne I pushed the front door of the store open to get inside of the store. and Dwayne was running right behind me. once we got inside the store I ran in the direction of the back of the store towards the bathroom. we were running so close that we were grabbing each other. while trying to get to the rear of the store. Dwayne turned back to look at the shooter. and I heard two shots. then Dwayne fell to the floor. While this happened we fell into the potatoe chip rack knocking it over onto a customer that was already inside of the store. At this point Dwayne was on the floor I was talking to Dwayne I was saying "are you alright . are you alright". Dwayne was'nt talking however he was knodding his head. and his eyes were opened. I then started yelling for the guy behind the counter to call the Police , and an Ambulance.

Q. John did anyone help you at this point when Dwayne was on the ground?

A. Yes there was a light skinned. kid there. but I don't know his name.

Q. John can you describe the shooter to me?

A. He was browned skinned . bald head. muscular build. he was wearing a Sky blue Hoodie type sweat jacket. with red stripes



running down the sleeves, he had sky blue jeans, and I think Black Nike sneakers, but I'm not to sure of the sneakers.

Q. John was there any type of an altercation between the shooter and Dwayne, or yourself prior to the shooting?

A. No.

Q. John did you ever see the shooter before?

A. No, but I could reconize his face if I saw him again.

Q. John was there anyone else in the store at the time of the shooting?

A. The owners.

Q. John does Dwayne have any kind of problems with anyone that you know of?

A. No.

Q. John to the best of you knowledge can you describe the gun the shooter had?

A. It was greyish, I guess.

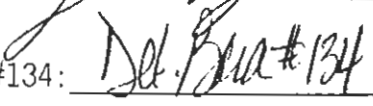
Q. John what hand did the shooter have the gun in?

A. His right hand, yeah his right hand.

Q. John do you have anything further to add to this statement?

A. No, thats it.

John Lyles:  01-05-07.

Detective E. Baia#134:  Del. Baia #134 01-05-07.



POLICE DEPARTMENT)
CITY OF MT. VERNON)
COUNTY OF WESTCHESTER) SS.
STATE OF NEW YORK)

TIME STARTED:1715 hrs
TIME FINISHED:1740 hrs
DATE:01/18/07
INCIDENT: 07-594
CASE #: 48-1

NOTICE: The making of false statements in this instrument is punishable as a Class A Misdemeanor pursuant to Section 210.45 of the New York State Penal Law.

I, the undersigned John Lyles do reside at 53 Glenwood Ave Apt 2B Yonkers , N.Y. and I am 35 years of age being born on 04/17/71. I am presently self-employed. I have a home phone number of 914-968-0279 and my work phone is: 914-968-0279. I do hereby make the statement to Detectives Roberto Boncardo D133 and Det George Ossipo D131 knowing them to be members of the Mt Vernon Police Dept.

Q: Mr. Lyles are you aware that the Mt Vernon Police Dept is investigating a Homicide which occurred on 01/05/07 at 18 East 3rd Street in the City of Mt Vernon in which your friend Dwayne Foster was shot and killed?

A: Yes

Q: Did you provide a statement to Det Baia on 01/05/07 at 2340 hrs in regards to this incident?

A: Yes

Q: Did there come a time on 01/17/07 at 2315 hrs when you identified the person who shot your friend Dwayne Foster?

A: Yes

Q: I am showing you a photo array which you and I signed in the presence of Det Ossipo D131 in your home on 01/17/07 at 2315hrs. Is this the same person that that you circled #2 the same person who shot you friend Dwayne Foster at the time of this Homicide?

A: Yes.

Q: Are you sure that the person you circled #2 is the same person that shot Mr Foster?

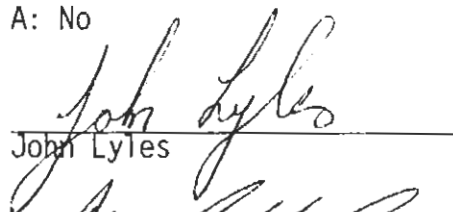
A: Yes.

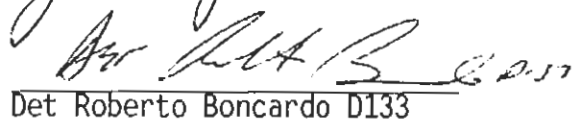
#2 in the photo array is described at Iyke O Churchill DOB 05/13/59
North Carolina SID NC0579723A Social Security Number 243330578 LKA
262 South 9th Ave Mount Vernon , N.Y.

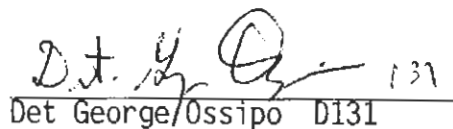
J L *G.O.*

Q: Is there anything else you wish to add to this statement?

A: No


John Lyles


Det Roberto Boncardo D133


Det George Ossipo D131

POLICE # _____ DB CASE # _____

Evidence Description _____

Place Evidence Recovered _____

Date _____ Time _____

Suspect/Defendant _____

Victim _____

Evidence Recovered By _____

CHECK EVIDENCE CATEGORY

SEARCHED	INDEXED	SERIALIZED	FILED
_____	_____	_____	_____

Chain of Custody

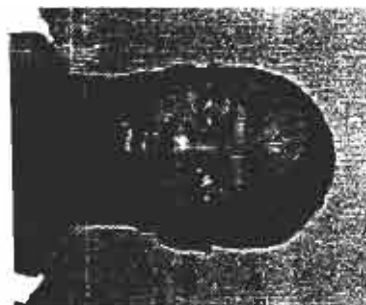
from _____ to _____ Date _____

COMPLETE BACK OF CARD

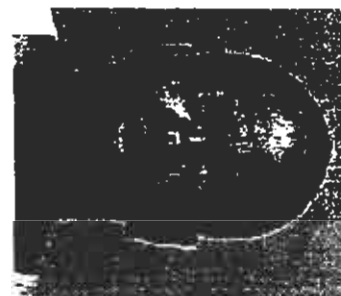
1/18/07 2385-001

Signature: *[Signature]*

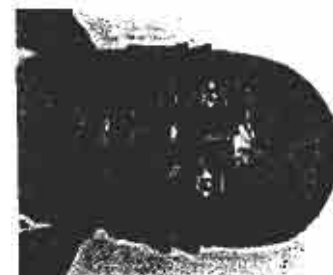
I have identified picture # _____ as the suspect on 10-20-07 (Date)



1



2



3



POLICE DEPARTMENT)
CITY OF MT. VERNON)
COUNTY OF WESTCHESTER) SS.
STATE OF NEW YORK)

TIME STARTED:1410 hrs
TIME FINISHED:1500 hrs
DATE:01/19/07
INCIDENT:07-594
CASE #: 48-1

NOTICE: The making of false statements in this instrument is punishable as a Class A Misdemeanor pursuant to Section 210.45 of the New York State Penal Law.

I, the undersigned Angel Vicente do reside at 257 South 3rd Ave basement Superintendent apartment Mount Vernon , N.Y. 10550 and I am 57 years of age being born on 10/24/50. I am presently employed at 257 South 3rd Ave and 80 West Grand Street Mount Vernon , N.Y. I have a home phone number of 914-562-7329 and my work phone is: 914-319-8651. I do hereby make the statement to Detective Roberto Boncardo D133 knowing him to be a member of the Mount Vernon Police Department.

Q: Mr. Vicente are you aware that the Mount Vernon Police Dept is investigating a Homicide (Shooting) that occurred on 01/05/07 at approx 6:15 PM at 18 East 3rd Street in the City of Mount Vernon?

A: Yes

Q: In your own words can you tell me what you saw the evening of the incident?

A: I was walking through the Pathmark Parking lot to go home. I went to the store to buy a pack of Marlboro cigarettes. I bought the cigarettes and walked outside. Between the store and the telephones I was opening the pack of cigarettes. I saw 2 guys wrestling on the sidewalk by the phones. I saw a gun in one of the guy's hands. I crossed the street and I went to the scaffold. I turned around, I looked across the street and I seen the tall guy running around the corner. Then two seconds later I hear 2 shots, I didn't know where they were coming from.

Q: When you saw the guy with the gun at the time of the incident did you see what he was wearing?

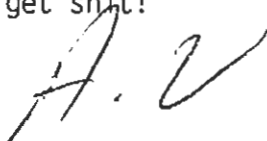
A: No I don't remember.

Q: Can you describe the physical description of the guy who was holding the gun?

A: Male Black 5'10" to 5'11" 200 lbs with brown skin.

Q: When the guy with the gun was on the sidewalk was he saying anything to the tall guy?

A: He said , "Your going to give me the money". The tall guy said , "You ain't going to get shit!"



Q: Did the guy with the gun have any type of accent you can remember?

A: Yes a West Indian Accent.

Q: What were the people on the street doing when they saw the guy with the gun?

A: Everyone was running away.

Q: In which hand did the guy hold the gun in?

A: His right hand.

Q: Can you describe the gun you saw in the guys' right hand?

A: No

Q: I showed you a photo array today that you signed. The person you circled in photo #2. Where do you remember him from?

A: I remember him as the guy on that day with the gun in his hand.


#2 is identified by the Mt Vernon Police Dept as Iyke O Churchill DOB 05/13/59 North Carolina ID NC0579723A Social Security Number 243330578 LKA 262 South 9th Ave Mt Vernon , N.Y.

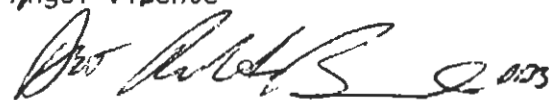
Q: When you were across the street by the scaffold. You looked back to see where the guy was with the gun. In which direction did you see the guy with the gun running?

A: I was down the block passed the scaffold about 150 feet from the store I saw the tall guy running around the corner and the guy with the gun running after him around the corner. I heard the two shots and kept on walking fast back to my house.

Q: Is there anything else you wish to add to this statement?

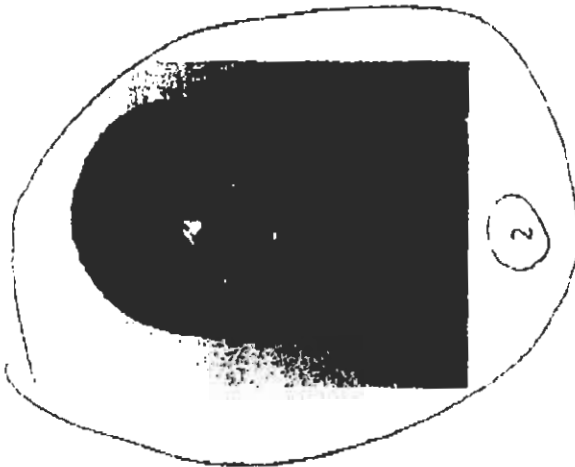
A: No


Angel Vicente


Det Roberto Boncardo D133

TOTAL P.03

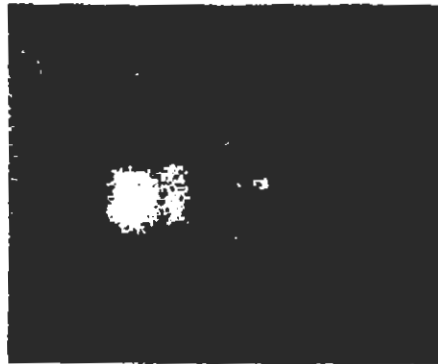
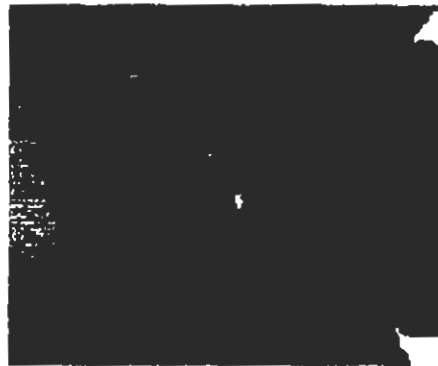
Handwritten: 1/19/07



1



3



I have identified picture # 2 as the suspect on 1/19/07 (Date)

Handwritten: EL #2 fue el sospechoso que se vio para el tiroteo en 3500. Omaha Police

Handwritten: 1/19/07 1400hrs

Handwritten: Don [unclear] 2035

Signature: *[Handwritten Signature]*

POLICE DEPARTMENT) TIME STARTED:1845Hrs
CITY OF MT. VERNON) TIME FINISHED:1945Hrs.
COUNTY OF WESTCHESTER) SS. DATE:01-19-07
STATE OF NEW YORK) INCIDENT:07-594
CASE #: 1-48

NOTICE: The making of false statements in this instrument is punishable as a Class A Misdemeanor pursuant to Section 210.45 of the New York State Penal Law.

I, the undersigned Montia Osborne do reside at 273 W.Lincoln Ave. 2L and I am 33 years of age being born on 01-25-73. I am presently employed at Scarsdale School District . Scarsdale ,N.Y. I have a home phone number of (914)562-6899. I do hereby make the statement to Detective Baia#134 knowing him to be a member of the Mount Vernon Police Department.

Q. Ms.Osborne the Mt.Vernon Police Dept. is currently investigating the homicide of Dwayne Foster (09-22-69) that occurred on 01-05-07 @ 18 E.3rd St @ approx. 1817Hrs.. Ms.Osborne did you recall speaking to Detective Ossipo on the following day 01-06-07?

A. Yes.

Q. Ms.Osborne what if anything did you and Det.Ossipo discuss on 01-06-07?

A. I explained to him how Dwayne Foster had an altercation with a Haitian man at the check cashing store at 148 W.1St St. in Mt.Vernon on 09-09-06.

Q. Ms.Osborne when you came into H.Q. this evening (01-19-07),did you have an opportunity to view a photo array?

A. Yes.

Q. Ms.Osborne did you recognize anyone in that photo array?

A. Yes.

Q. And who did you recognize?

A. Number 3.

Q. Where did you recognize him from?

A. He is the man I had an arguement with at the check cashing place.

M.O.

- Q. The man in position number 3, is known to the Mt. Vernon police dept. as Lyke Churchill (05-13-59). Is this the same person that had the argument with you on 09-09-06 at the check cashing store.
- A. Yes.
- Q. Ms. Osborne what exactly happened at the check cashing store located at 148 W. 1st St.?
- A. I was on line at the check cashing place, along with a lot of other people, who were also waiting in line, and the man I had the argument with was at the counter, and started arguing with the teller at counter. I was behind him next in line. At that time I told him "Come on life is too short for you to be arguing over something so meaningless". He told me to shut up, I told him "who do you think your talking to like that?", he got right in my face and said "You Bitch", that's when I got nervous, and went outside, and got Dwayne Foster, who was waiting for me in the car. I told Dwayne what happened, and Dwayne then stepped out of the car, and at the time, The man Lyke was coming out of the store behind me when I went to get Dwayne.
- Q. Ms. Osborne what if anything happened from that point?
- A. Dwayne was in the man's face and asked him, "Are you being disrespectful to my wife?" After that they began to argue, so I turned to call the Police.
- Q. To the best of your knowledge did Dwayne, or Lyke begin to fight?
- A. No.
- Q. What if anything happened then?
- A. The police arrived on the scene, and one of the officers took me inside the check cashing place and asked me what happened, and I told him what I'm telling you now. When we came out of the check cashing place, the man said that Dwayne hit him, and wanted to press charges.
- Q. Was anyone arrested?
- A. No, the police documented our names and I told the cops that the man Lyke was calling someone and taking our license plate number.
- Q. Ms. Osborne did there ever come a time when you or Dwayne ever saw the Lyke Churchill again?
- A. Yes, not me however Dwayne did.
- Q. Do you recall when, or how many times?
- A. Three Additional times.
- Q. Do you recall exactly when or where?

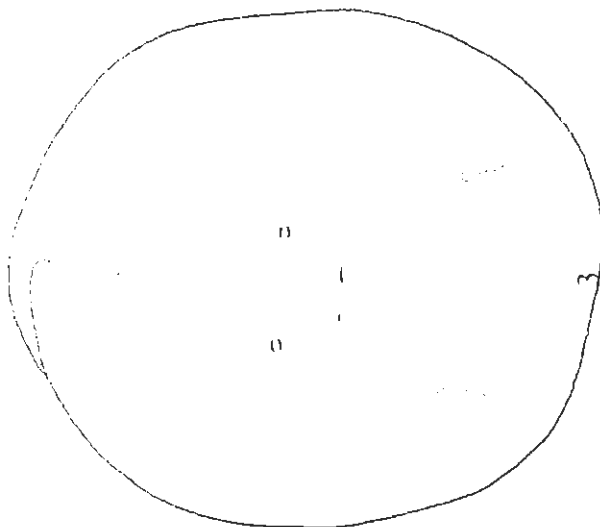
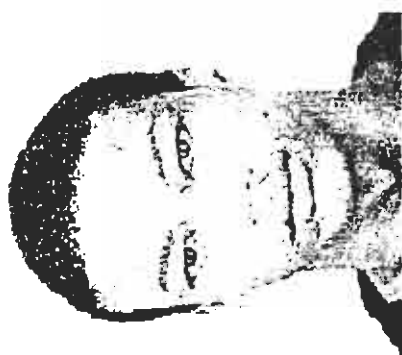
- A. I just remember the 1st time, and that was at a gas station. Dwayne came me and told me he ran into that man from the check cashing place again, but this time the man "Iyke" was acting like he was going to pull out a gun it just so happened that Dwayne's friend pulled up in the gas station at the same time, and they beat the man up.
- Q. How bad did they beat him up?
- A. I don't know, it wasn't like Dwayne said he left him there bleeding or anything, I really don't know.
- Q. Do you know if Dwayne or any of his friends took anything from Iyke Churchill?
- A. No, I don't know.
- Q. Do you know around when this happened?
- A. It was December of 2006.
- Q. Do you remember if it was the beginning or the end of December?
- A. The beginning.
- Q. And you are certain that Iyke Churchill, and the person Dwayne was referring to as the "Man from the check cashing store" are one in the same?
- A. Yes.
- Q. Ms. Osborne earlier you stated that Dwayne had three run in's with Iyke Churchill do you recall the other two?
- A. I just recall him telling me he ran into the man from the check cashing place, and that he kept popping up in different cars. And I told Dwayne to be careful, and that he needed to take this seriously, because there is a reason why he keeps popping up.
- Q. Earlier you stated the man Iyke Churchill was Haitian, why do you believe that he was Haitian?
- A. Because he had a deep accent, I'm not positive if he was exactly Haitian I know he had an accent.
- Q. Ms. Osborne do you have anything further to add to this statement, that you can recall at this time?
- A. No, that's pretty much all I recall for know.

Montia Osborne: Montia Osborne (01-19-07).

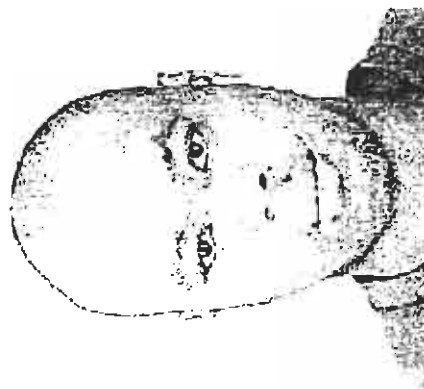
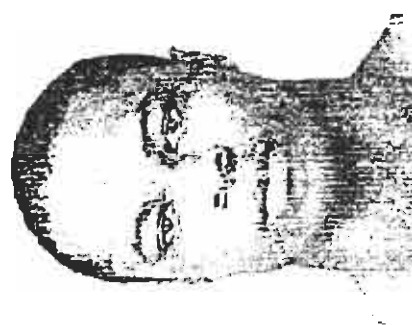
Det. Baia#134:

Det. Baia #134

(01-19-07).



M. Osborne



I have identified picture # 3 as the suspect on 9/9/06 (Date)
as the person who had an altercation with myself and Wayne Foster on
148 West 1st Street.

Signature: M. Osborne

Index No. 08CIV0255

Year 200

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LYKE CHURCHILL,

Plaintiff

-against-

CITY OF MOUNT VERNON, MOUNT VERNON POLICE
DEPARTMENT, LIEUTENANT ADINARO, DETECTIVE
ENZO.BAIA, DETECTIVE BAILEY, DETECTIVE BONCARDO,
DETECTIVE FEGAN GEORGIO, DETECTIVE MASTROGIORGIO,
AND DETECTIVE OSSIBO

Defendants

DEFENDANT'S RULE 26(a) DISCLOSURE

HELEN M. BLACKWOOD, ESQ.
Corporation Counsel

Attorney for

Office and Post Office Address
City Hall - Roosevelt Square
Mount Vernon, New York 10550
Telephone No. (914) 665-2366

Service of copy of the within

is hereby admitted.

Dated,

Attorney(s) for

PLEASE TAKE NOTICE

- ☐ NOTICE OF ENTRY that the within is a (certified) true copy of 2008
entered in the office of the clerk of the within named court on
- ☐ NOTICE OF SETTLEMENT that an Order of which the within is a true copy will be presented for settlement to the Hon.
one of the judges of the within named Court,
at
on 2008, at M.

Dated:

Attorney for

Office of the
Corporation Counsel
Defendant City of Mount Vernon
City Hall
Mount Vernon, New York 10550

To
Attorney(s) for

NOTICE OF DISCLOSURE
FILED
APR 9 2008
CLERK OF COURT
SOUTHERN DISTRICT OF NEW YORK